

OFFICIAL INFORMATIONCONFIDENTIAL**EVIDENCE CODE SECTION 1040
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: March 19, 2020
TO: Honorable Board of Police Commissioners
FROM: Inspector General
SUBJECT: OFFICER-INVOLVED SHOOTING 017-19 FOR 4/7/20 CLOSED-
SESSION AGENDA

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On () Off (X)</u>	<u>Uniform-Yes () No (X)</u>
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Outside City	4/26/19	10:55 a.m.		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Starkey, F./Sgt. I	32 years, 4 months
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Total Involved Officer(s)

1 x Sgt. I

<u>Suspect</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
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Unidentified male.

COP Recommendations

Tactics – Tactical Debrief, Sergeant Starkey.

Drawing/Exhibiting – In Policy, No Further Action, Sergeant Starkey.

Lethal Use of Force – In Policy, No Further Action, Sergeant Starkey.

IG Recommendations

Tactics – Same as COP.

Drawing/Exhibiting – Same as COP.

Lethal Use of Force – Same as COP.

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INVESTIGATION

Synopsis:

On Friday, April 26, 2019, at approximately 1055 hours, an off-duty sergeant was at a car wash having his personal vehicle detailed, when he observed the suspect enter the car wash office. A short time later, the sergeant heard loud noises emitting from the office area. Within seconds, the suspect exited the office holding a handgun in his right hand. The sergeant realized the loud noises may have been gun shots, and a crime may have occurred. He verbally identified himself as police officer and ordered the suspect to stop. The suspect fired at the sergeant resulting in an Officer-Involved Shooting (OIS).

It was later determined that the suspect entered the office and shot and killed an employee of the car wash. The car wash was located within the Los Angeles Sheriff's Department (LASD) jurisdiction, therefore, investigators from the LASD responded to the scene and assumed investigative responsibility for the homicide (Investigators' Note No. 1).

Annotated Force Investigation Division (FID) Incident Summary¹

On Friday, April 26, 2019, Personnel Group, Employee Assistance Unit (EAU), Sergeant I Fred Starkey, Serial No. 25253, was off-duty on a regular scheduled day off.² He drove his personal vehicle to Mike's Car Wash Express located at 10135 South Vermont Avenue, in the County of Los Angeles, to be washed and detailed.³

At approximately 1050 hours, Sergeant Starkey was standing in the car wash lot, just west of the southwest driveway, watching his car get detailed. He remained at this

¹ The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

² Sergeant Starkey, 32 years, four months with the Department, 59 years of age, 6 feet tall, 265 pounds. He was dressed in plain clothes wearing a green polo shirt, khaki pants and black shoes. Sergeant Starkey was carrying his personal-purchase .380 Caliber, Smith and Wesson Bodyguard pistol in a holster, clipped to the right side of his belt, that was concealed by his shirt. He was also in possession of an additional magazine that he carried in his left pant pocket. Sergeant Starkey did not have any additional equipment or less lethal options.

³ Mike's Car Wash Express was located on the northwest corner of Vermont Avenue and 102nd Street, in LASD jurisdiction. At the time of this incident, the location was serviced by LASD's South Los Angeles Station. It was one block outside of Los Angeles Police Department (LAPD), Southeast Division's Area.

location for a short period of time, then walked north through the parking lot toward the car wash office.⁴

At 1052:17 hours, Sergeant Starkey sat on a black wrought iron chair, that was located west of the office door, facing in a southerly direction. Another patron of the car wash, Witness Beatriz Zamora, was seated on a bench east of the door, as depicted in the below photograph.⁵



At 1053:18 hours, security video captured a male Hispanic (suspect) emerge from the north/south alley, that was located southwest of the car wash lot. The suspect walked in a northerly direction across 102nd Street, then east on the north sidewalk of 102nd Street. He entered the car wash lot and proceeded to walk in a northeasterly direction toward the office.⁶

At approximately 1053:56 hours, security video recorded the suspect as he walked past Sergeant Starkey and entered the office.⁷ Sergeant Starkey observed the suspect walk by and noted that he was a male Hispanic, wearing a grey hooded sweatshirt and grey

⁴ Gleaned from the car wash security video, Camera No. 4. The investigation determined that the timestamp depicted on the video was one hour slower than Pacific Standard Time (PST). All times referenced from security video are adjusted to reflect this variation.

⁵ The LASD confirmed that the woman seated on the bench was Beatriz Zamora.

⁶ Gleaned from the car wash security video, Camera No. 4.

⁷ The car wash office consisted of a cash register, gift shop, sitting area and restroom for patrons.

pants. According to Sergeant Starkey, the hood of the sweatshirt was up, covering the suspect's head and a portion of his face.⁸

Note: Sergeant Starkey believed the suspect walked past him while he was standing near the southwest driveway. However, the security video recorded the suspect walk past Sergeant Starkey as he was seated in the chair.

According to Sergeant Starkey, he heard three loud consecutive noises emit from the office area. Sergeant Starkey said the noise resembled the sound of bottles being dropped and did not immediately recognize it as gunfire. At approximately 1054:06 hours, security video captured Sergeant Starkey and the unidentified woman seated on the bench turn their heads toward the office.⁹

Note: Sergeant Starkey believed he was seated in the wrought iron chair for approximately ten minutes, prior to hearing the loud noises. An analysis of the security video determined that Sergeant Starkey was seated in the chair for less than two minutes.

Unbeknownst to Sergeant Starkey, the suspect entered the office and shot an employee, who was later identified as Raymundo Cardona. Cardona sustained four gunshot wounds and succumbed to his injuries.¹⁰ He was pronounced dead at scene. (Addendum No. 1).

The Supplemental Report completed by the LASD erroneously stated that Sergeant Starkey described the suspect's attire as a dark blue hoodie and dark blue sweat pants.

At approximately 1054:09 hours, security video captured the suspect exit the office and walk in a southwesterly direction at a fast pace.¹¹ According to Sergeant Starkey, as the suspect walked past him, he observed a black semi-auto handgun in the suspect's right hand.¹² Sergeant Starkey stated that the gun was pointed down, along the suspect's right side, with the muzzle pointed toward the ground. The suspect continued walking in a southwesterly direction toward the driveway.

⁸ Sergeant Starkey further described the suspect as being approximately 20-25 years old, between 5 foot 7 and 5 foot 8 inches tall, with a weight of approximately 155 to 160 pounds.

⁹ Gleaned from the car wash security video, Camera No. 10.

¹⁰ The Autopsy Report was retained in the Force Investigation Division (FID) case book. Due to the ongoing homicide investigation, it was not included as an addenda item.

¹¹ Gleaned from the car wash security video, Camera No. 10.

¹² According to Sergeant Starkey, the distance between him and the suspect was approximately two to three feet as the suspect walked by.

Note: The video analysis revealed that the suspect was inside of the office for approximately nine seconds.¹³

The below image is a still photograph, captured from security video, as the suspect exited the office.¹⁴



After observing the suspect armed with a gun, Sergeant Starkey formed the opinion that the noises he heard may have been gunshots. Believing a crime occurred inside of the office, Sergeant Starkey immediately stood up and yelled, *"Stop, Police."* According to Sergeant Starkey, *"Because I knew that he had a weapon and if I was going to take any action, I needed to let him know I was a police officer. And I also wanted everybody in the parking lot - - not the parking lot, the car wash to know that I was a police officer and not a suspect myself."*¹⁵

¹³ Gleaned from the car wash security video, Camera No. 10.

¹⁴ The still photograph was provided by the LASD, gleaned from car wash security video, Camera No. 10.

¹⁵ Sergeant Starkey's statement, Pages 54-55, Lines 23-4.

According to Sergeant Starkey, in response to his command, the suspect turned in a counterclockwise direction and fired one round in Sergeant Starkey's direction. Sergeant Starkey unholstered his pistol, which he held in a two-hand shooting position, with the muzzle pointed in a southerly direction toward the suspect, and fired at the suspect.

Note: Sergeant Starkey was unsure if he unholstered his pistol before or after the suspect fired at him.

Sergeant Starkey fired one round at the suspect in a southerly direction from an approximate distance of 15-20 feet.

[...]

Immediately following the OIS, the suspect ran in a southwesterly direction through the car wash lot. Witnesses Alejandro Murillo, Miguel Sanchez, Armando Chacon, Carlos Torres, and Fernando Mazeriegos were employees of the car wash and were standing in the car wash lot, east of the southwest driveway, at the time of the incident.¹⁶ All five witnesses indicated that they observed the suspect flee on foot through the car wash lot. According to Witness Sanchez, as the suspect ran past him, he pointed a pistol in his direction and continued to run toward the southwest driveway.

According to Witness Murillo, he chased the suspect briefly as he fled through the car wash lot. As the suspect approached the gate (southwest driveway), he turned and fired approximately three rounds. Murillo stated he stopped chasing the suspect and dropped to the ground to avoid being shot.¹⁷ According to Witness Murillo, he believes Sergeant Starkey's actions prevented him and the other witnesses from being shot by the suspect.

Note: A bullet impact was subsequently identified on the wooden planter located in the south end of the parking lot, just east of the southwest driveway. One fired bullet was recovered from the planter. (Imagelink Nos. 3 and 4).

The below image is a still photograph captured from the car wash security video. It depicts the suspect running west on the north sidewalk of 102nd Street. The suspect's right arm appears to be pointed back in an easterly direction towards car wash employees.¹⁸

¹⁶ Witnesses Murillo, Sanchez, Chacon, Torres, and Mazeriegos, were interviewed by investigators from the LASD. Heavily redacted versions of the recorded interviews were provided to FID investigators.

¹⁷ At approximately 1054:16 hours, car wash security video, Camera No. 4, captured a car wash employee drop to ground near the southwest driveway.

¹⁸ The still photograph was provided by the LASD. Gleaned from car wash security video, Camera No. 5. LASD did not provide any video footage from Camera 5.



The suspect continued to run west on 102nd Street, then crossed 102nd Street and entered the north/south alley, he originally emerged from. According to Sergeant Starkey, he followed the suspect on foot, with intentions of tracking his movements. Sergeant Starkey estimated that he was approximately 40-50 yards behind the suspect. As he did so, Sergeant Starkey held his pistol in his right hand. Witness Mazeriegos ran toward the alley behind Sergeant Starkey.¹⁹

Note: Sergeant Starkey believed he was holding his pistol in a two-hand, low-ready position with his finger along the side of the rail, as he followed the suspect.

According to Sergeant Starkey, once he reached the mouth of the alley, he used the building located on the northeast side of the alley as cover and conducted a *quick peek* down the alley.²⁰ According to Witness Mazeriegos, Sergeant Starkey directed him to stop at the mouth of the alley, in case the suspect shoots in their direction.

¹⁹ Captured by car wash security video, Camera No. 4.

²⁰ A quick peek is a technique used by officers when they need to see directly into a high threat area. The officer will quickly look around an object of cover to identify potential threats.

Note: The security video depicts Sergeant Starkey stop in the middle of 102nd Street, north of the alley.

Sergeant Starkey observed the suspect running south toward a gray Toyota, four-door vehicle, that was parked in the alley. The suspect entered the front passenger side of the Toyota, and the vehicle drove south through the alley.²¹

According to Witnesses Murrillo, Sanchez, Chacon, Torres, and Mazeriegos, they did not witness the OIS.

At approximately 1056 hours, Sergeant Starkey holstered his pistol and called 9-1-1 on his cellular phone to report the incident. Upon speaking with Communications Division (CD), Sergeant Starkey immediately identified himself as an LAPD sergeant and advised that he was involved in an OIS. He requested a Southeast Patrol Division unit respond to his location and directed CD to notify the LASD.²²

Note: According to Sergeant Starkey, he requested a Southeast supervisor respond when he contacted CD.

Sergeant Starkey provided CD with a description of the suspect and the suspect's vehicle. Communications Division inquired if anyone was injured. Sergeant Starkey went into the office and discovered that Raymundo Cardona had been shot. Sergeant Starkey requested a Rescue Ambulance (RA) for Cardona.

At 1058:40 hours, CD broadcast, *"Southeast Units, ADW shooting just occurred, 102nd and Vermont, 102nd and Vermont, at the car wash. Suspect vehicle is a gray Toyota. Suspect male Hispanic, 5 feet 8 to 9, wearing a gray hooded sweatshirt. It's Code Three Incident 2083, RD 1821. Southeast to handle identify."*

Southeast Patrol Division, uniformed Police Officers II Jahaziel Andrade, Serial No. 40013, and Juan Collazo, Serial No. 42229, Unit 18A3, were assigned to call.

At approximately 1059:54 hours, Southeast Patrol Division, uniformed Sergeant I Carey Coco, Serial No. 40088, Unit 18L70, advised CD that he would respond to the call. At 1100:44 hours, as captured on BWV, Southeast Patrol Division, uniformed Police Officers II Troy Hagen, Serial No. 43092, driver, and Jacqueline Serna, Serial No. 43190, passenger, Unit 18A41, were the first LAPD officers to arrive at scene. Upon their arrival, multiple deputies from the LASD were already at scene (Investigators' Note Nos. 2 and 3).²³

²¹ According to Sergeant Starkey, he was unable to see the driver of the vehicle and was unable to determine if there were any other occupants.

²² Southeast Patrol Division was the closest LAPD station to the incident.

²³ Officers Andrade, Collazo, Serna and Hagen were not present at the time of the OIS, nor did they have any significant involvement in the incident. Therefore, they were not interviewed by FID investigators.

At approximately 1104 hours, Sergeant Coco arrived at scene. Sergeant Coco identified Sergeant Starkey as the involved officer, obtained a Public Safety Statement (PSS), and admonished him not to discuss the incident (Investigators' Note No. 4). At approximately 1157 hours, the Department Operations Center (DOC) was notified of the OIS and details of the subsequent notifications are attached (Addendum No. 2).

Note: According to the DOC log, Southeast Patrol Division, Sergeant I Erin Gabaldon, Serial No. 35126, notified the DOC at approximately 1157 hours; approximately one hour after the OIS. However, her Watch Commander Log indicates that she spoke with FID Lieutenant Jeffrey Wenninger, Serial No. 30572, at 1140 hours and notified the DOC at 1150 hours.

Force Investigation Division, Detective III Brandy Arzate, Serial No. 34394, was the first representative from FID to arrive at scene at approximately 1252 hours.

Force Investigation Division, Sergeant II Richard Brunson, Serial No. 32828, reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident prior to being interviewed by FID investigators. Deviations from the standard protocols were noted (Investigators' Note Nos. 5 and 6) and (Addendum No. 3).

Scene Description

This OIS occurred at Mike's Car Wash Express located at 10135 South Vermont Avenue in the County of Los Angeles. The business was located on the northwest corner of Vermont Avenue and 102nd Street, in the LASD jurisdiction. The closest LAPD geographic division was Southeast Patrol Division.

Vermont Avenue was a north/south street that had three lanes of traffic in each direction and parking along the east and west curbs. The northbound and southbound lanes were divided by a center median.

Mike's Car Wash consisted of a large open lot that contained covered wash bays where auto detailing was performed. The lot also had a patio waiting area and a small inside office/store area.

The surrounding area was a mixture of commercial business and residential properties. The incident occurred during daylight at approximately 1055 hours. The weather conditions were dry and sunny with clear skies.

Canvass for Witnesses

On April 26, 2019, LASD and Southeast Patrol Division personnel conducted a canvass of the area and car wash parking lot for witnesses to the incident.

The LASD provided FID investigators with six heavily redacted witness interviews. Unless otherwise noted, the statements of all witnesses were recorded and transcribed and are contained in this report (Investigators' Note No. 7).

Suspect Information

At the time of this report, the suspect had not been identified.

An incident report was completed by the LASD for Murder against Victim Raymundo Cardona and Attempt Murder against Sergeant Starkey. A copy of that incident report was provided to FID investigators; however, the suspect description was fully redacted (Addendum No. 1).

Injuries

Sergeant Starkey was not injured during this incident. There was no evidence at the crime scene to indicate that the unidentified suspect sustained any injury as a result of the OIS.

Evidence

On April 26, 2019, LASD, Scientific Services Bureau, Forensic Identification Specialists II Sergio Castellon, Serial No. 614083, David Alonso, Serial No. 538246, and Gloria Aldaba, Serial No. 605612, responded to the scene. They conducted examinations of the OIS and homicide scenes for evidence including but not limited to ballistic impacts, trajectories, projectiles and forensic evidence.

As result of their examination, multiple items of evidence were recovered and booked under LASD File No. 019-03438-0372-011. Among those items were two fired .380 caliber cartridge casings, one fired bullet, and bullet fragments.²⁴

One .380 caliber cartridge casing was recovered from the ground, next to the curb, in front of 1012 West 102nd Street (EV-1), and the other was recovered from the ground of the car wash parking lot, near the wrought iron chair Sergeant Starkey was seated in just prior to the OIS (EV-4) (Addendum No. 4).

Weapons

The suspect was armed with a .380 caliber pistol. As of the date this case was submitted for approval, the pistol had not been recovered.

Sergeant Starkey was armed with his Department approved .380 caliber Smith and Wesson, Body Guard Model, semiautomatic pistol. The pistol was carried in a black

²⁴ The total number of items recovered by LASD personnel and their descriptions, was not provided to FID Investigators.

Department-approved friction retention holster, that was clipped to the outside of Sergeant Starkey's belt. According to Sergeant Starkey, at the time of the OIS, his pistol was loaded to capacity with seven rounds of Speer Lawman, Department approved .380 caliber ammunition. Six rounds were in the magazine and one round was in the chamber of the pistol.

On April 26, 2019, at approximately 1710 hours, Criminalist Aldaba, in the presence of Detectives Boskovich, Manfree, and Sergeant Brunson, conducted a post-incident examination of Sergeant Starkey's pistol. They determined the pistol was loaded with one round in the chamber and five rounds in the magazine.

Sergeant Brunson inspected one additional magazine that Sergeant Starkey carried in his left pant pocket. The inspection determined that the magazine was loaded with five rounds of Speer Lawman, Department approved .380 caliber ammunition (Investigators' Note No. 8).

On April 26, 2019, Detective Boskovich requested a function check examination of Sergeant Starkey's pistol. LASD Senior Criminalist Steve Shiraishi, Serial No. 531594, concluded that the pistol was functional (Addendum No. 5).

On April 30, 2019, the LASD released Sergeant Starkey's pistol to Sergeant Brunson.

On May 6, 2019, Forensic Science Division (FSD), Firearms Analysis Unit (FAU), Criminalist II Fadil Biraimah, Serial No. N3140, examined and test-fired Sergeant Starkey's pistol. The pistol's measured trigger pull was within Department specifications (Addendum No. 6).

Sergeant Starkey's pistol was entered into the Firearm Inventory Tracking System (FITS) on October 21, 2015.

Firearms Analysis

On April 26, 2019, LASD Criminalists performed a bullet path analysis in the vicinity of the carwash pursuant to the homicide investigation and OIS. They identified at least two impacts with two corresponding pathways.

A perforating bullet impact (Identification No. C) was identified in a wooden planter located on the south end of the parking lot. The projectile traveled through the wood slat on the west side of the planter and impacted the north interior side of the planter. A fired bullet was recovered on a car floor mat lying on top of the planter (EV-16). The impacts were consistent with a bullet traveling upward in a northeasterly direction.

A bullet impact (Identification No. D) was located on a pole, at the northwest corner of the apartment building located at 1008 West 102nd Street.²⁵ The projectile traveled in a

²⁵ 1008 West 102nd Street was located just south of the car wash parking lot, on the south side of 102nd Street.

general south direction and impacted the north facing surface of the pole. Bullet fragments were recovered from the ground near the pole (EV-2 and EV-3).

Note: The LASD redacted the bullet impact details for Identification Nos. A and B from their Crime Scene Investigation Report.

A cartridge case comparison was completed by the LASD, and determined that the cartridge casing recovered from the car wash parking lot (EV- 4) and the bullet fragment recovered from the ground in front of 1008 West 102nd Street (EV-2), were both fired from Sergeant Starkey's pistol.

The additional ballistic evidence recovered from the scene was determined to be fired from a different .380 caliber pistol (Addendum No. 7).

Visual Documentation

Digital In-Car Video System (DICVS)

LAPD police vehicles equipped with DICV responded to this incident, resulting in three videos. All three videos were recorded post OIS and were reviewed in their entirety by FID investigators. The videos were found to be of no evidentiary value, as they did not capture the OIS or moments preceding it.

Body Worn Video (BWV)

There were five LAPD police officers who activated their BWV at some point during this incident. All the videos were recorded post OIS and were reviewed in their entirety by FID investigators. The following is a synopsis of those BWVs that had significant evidentiary value to the OIS:

Officer Serna's BWV captured her arrival at scene with Officer Hagen and contact with Sergeant Starkey. Her BWV captured Sergeant Starkey discussing the incident with Officer Hagen, prior to Sergeant Coco's arrival. The BWV captured Sergeant Starkey tell Officer Hagen that he fired one round during the incident. Sergeant Starkey also relayed information that included a suspect description, weapon description, direction of travel and vehicle that the suspect entered, along with the fact that Starkey heard three gunshots inside the office of the car wash.

Officer Serna met with Sergeant Coco upon his arrival, and directed him to Sergeant Starkey. Her BWV also captured issues regarding Sergeant Coco's separation and monitoring of Sergeant Starkey following the PSS.

Sergeant Coco's BWV captured his arrival at scene and contact with Sergeant Starkey. The BWV captured additional issues regarding Sergeant Coco's separation and monitoring of Sergeant Starkey following the PSS.²⁶

²⁶ The issues regarding separation and monitoring of Sergeant Starkey were documented on Investigators' Note No. 5.

Social Media

Personnel assigned to FID's Cyber Unit monitored social media sites from the date of the incident until the submission of this investigation. No additional evidence, information or witnesses were identified.

Other Department Video

None.

Outside Video

Mike's Car Wash Express was equipped with a surveillance system consisting of multiple cameras. The LASD recovered the video footage and provided FID investigators with two short video clips. The clips did not contain audio.

Video Clip No. 1 was recorded by Camera No. 4. The camera faced a southwesterly direction toward 102nd Street, capturing the parking lot, southwest driveway, and mouth of the alley. The video captured the suspect approach the location and flee on foot following the homicide/OIS.

Video Clip No. 2 was recorded by Camera No. 10. The camera faced in a northeasterly direction toward the car wash office, capturing the front door and a portion of the parking lot. The video captured Sergeant Starkey as he sat outside of the office door, as well as the suspect entering and exiting the business.

The security video did not capture the OIS. Both video clips were filed under Technical Investigation Division (TID) File No. 729443.

Photographs

Technical Investigation Division, Photographer III Raymond Wong, Serial No. N3127, responded to the scene. Photographs of the OIS scene and associated evidence are stored under Control No. D0769257.

A photographer from the LASD responded to the scene and photographed the interior and exterior of the car wash, as well as the associated evidence. The LASD provided FID investigators with a copy of their exterior crime scene photographs only. Those photographs are stored under Control No. D313619.

Notifications

On April 26, 2019, at approximately 1157 hours, the DOC was notified of the Categorical Use of Force and the details of the subsequent notifications are attached (Addendum No. 2).

Personnel at Scene

Detective Arzate was the first representative from FID to arrive at scene at approximately 1252 hours. Crime scene logs documenting additional personnel at the location are contained within the FID case file and are available for review.

Communications

A copy of the CD Incident Recall printouts related to Incident No. 190426002083, are on file at FID. Digital recordings of Southeast Division's base frequency as well as the 911 call related to this incident, are also stored at FID.

Justice System Integrity Division

This case did not meet the LASD criteria for review by the Justice System Integrity Division (JSID) and therefore it was not presented.

Investigators' Notes

1. Los Angeles Sheriff's Department, Homicide Bureau, Sergeant Marc Boskovich, Serial No. 432028 and Detective Joseph Manfree, Serial No. 486639, responded to the scene and accepted investigative responsibility for the homicide, LASD Case No. 019-03438-0372-011. Their supervisor, Lieutenant Brandon Dean, was also present at the crime scene.

Force Investigation Division (FID), Detective III Brandy Arzate, Serial No. 34394, requested that one investigator from FID be present during the interview of civilian witnesses to the OIS. The request was denied by Lieutenant Dean. Upon clearing the crime scene, the LASD recovered the Digital Video Recorder (DVR) for the car wash video surveillance system. Detective Arzate subsequently requested a copy of the security video, or at minimum, the opportunity to view the footage. Lieutenant Dean denied the request.

Due to the on-going homicide investigation, the LASD provided FID investigators with limited information, to preserve the integrity of their investigation. The LASD ultimately provided investigators with six heavily redacted witness interviews, exterior crime scene photos, two still photographs, as well as two edited security video clips, obscuring the suspect's image, from the Mike's Car Wash Express security system (Camera Nos. four and 10). Also provided was the redacted Incident Report, Crime Scene Investigation Reports and Laboratory Examination Reports.

The entire interview of Witness Beatriz Zamora was redacted, leaving only the introduction and closing. Therefore, the transcripts of this interview were not included in the investigation.

2. A review of BWV determined that Officer Hagen activated his BWV late, at 1120:38 hours. Therefore, it did not capture his response, arrival at scene, and a portion of his actions upon arrival.

On December 6, 2019, Force Investigation Division, Commanding Officer, Captain III Al Pasos, Serial No. 25501, informed Office of Operations of the issue.

3. At 1102:09 hours, as captured on Officer Serna's BWV, Sergeant Starkey briefly discussed the incident with Officer Hagen. Sergeant Starkey advised Officer Hagen that he fired one round during the incident. Sergeant Starkey also provided a suspect and weapon description, the suspect's direction of travel, suspect vehicle information and number of gunshots he heard fired in the car wash office. This took place prior to Sergeant Coco's arrival at scene, therefore, Sergeant Starkey had not been separated and admonished not to discuss the incident prior to the conversation.

At 1103:48 hours, Officer Hagen advised a male deputy that Sergeant Starkey was involved in an OIS and provided him with a synopsis of the incident.

4. A review of BWV determined that Sergeant Coco activated his BWV late, at approximately 1104:28 hours, after he arrived at scene. Therefore, a portion of his response was not captured.

On December 6, 2019, Captain Pasos informed Office of Operations of the issue.

5. Upon reviewing the BWV related to this incident, issues with the separation and monitoring of Sergeant Starkey were identified. At 1106:58 hours, Officer Serna's BWV captured Sergeant Coco walk back to his police vehicle leaving Sergeant Starkey in the car wash parking lot unmonitored.

As captured by Sergeant Coco's BWV, at approximately 1147:46, Sergeant Starkey was seated in Sergeant Coco's police vehicle unmonitored while Sergeant Coco spoke with citizens at scene.

At approximately 1151 hours, several citizens approached Sergeant Starkey and engaged him in conversation. Sergeant Coco allowed the conversation to take place. A short time later, Sergeant Starkey, in the presence of Sergeant Coco, was approached by a LAPD supervisor who inquired about the suspect's description and weapon. At that time, the supervisor informed Sergeant Starkey that 9mm casings were located within the crime scene.

On April 29, 2019, FID Detective III James Goossen, Serial No. 26464, notified Southeast Patrol Division, Captain I Stacy Spell, Serial No. 30971, regarding the above noted issues. Southeast Area, Captain III Louis Paglialonga, Serial No. 30329, and Captain Spell, were each given access to Sergeant Coco's BWV, so they could take immediate and appropriate actions.

6. The Watch Commander's Log, completed by Sergeant Gabaldon, did not document the time, location, and supervisor that separated and monitored Sergeant Starkey.

The Sergeant's Daily Log, completed by Sergeant Coco, did not contain the times or location(s) where he monitored Sergeant Starkey.

On December 6, 2019, Captain Pasos informed Office of Operations of the issue.

7. At approximately 1101:52 hours, Officer Serna's BWV captured her conversation with an unidentified male Black citizen in a wheelchair. The citizen advised Officers Serna and Hagen that he was north of the car wash when he heard two shots followed by a female Hispanic speaking frantically on the phone. The BWV did not capture the officers complete a Field Interview Card or obtain any additional information from the man. At the time this report was submitted, the identity of the citizen remains unknown.
8. Immediately following his recorded administrative interview, Sergeant Starkey advised the FID investigators that he was in possession of an additional magazine at the time of the OIS. According to Sergeant Starkey, he forgot the magazine was in his pocket and did not mention it during the previous magazine count. At the time of the disclosure, LASD personnel and the photographer had already left the station. Therefore, the additional magazine was not included in the photographs.

Sergeant Starkey's additional magazine had a capacity of six rounds. However, it was loaded with only five rounds of ammunition. According to Sergeant Starkey, the magazine should have been loaded with six rounds, and he did not intentionally omit one round.

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CHIEF OF POLICE REPORT²⁷

Chief of Police Findings

Tactics – Tactical Debrief, Sergeant Starkey.

Drawing/Exhibiting – In Policy, No Further Action, Sergeant Starkey.

Lethal Use of Force – In Policy, No Further Action, Sergeant Starkey.

Chief of Police Analysis

Detention

- Sergeant Starkey was off-duty on a regularly scheduled day off. While waiting for his vehicle wash to be completed, he was seated next to the car wash office door. He heard three consecutive noises that he subsequently believed to be possible gun shots. After the three possible gunshots, a male holding a black semi-automatic pistol exited the office. The suspect's face was concealed by the hood of his sweatshirt. Based on his experience, Sergeant Starkey determined a crime may have occurred. Believing the suspect was a threat to himself and to the other people in the carwash, Sergeant Starkey decided to identify himself as a police officer and potentially take some type of law enforcement action. Without blocking the path or physically confronting the suspect, Sergeant Starkey ordered the suspect to stop as Sergeant Starkey identified himself as a police officer. The suspect turned towards Sergeant Starkey and fired one round in Sergeant Starkey's direction, resulting in an OIS. The suspect fled on foot and entered a waiting vehicle. Sergeant Starkey's actions were appropriate and within Department policies and procedures.

Tactics

- Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."*

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

²⁷ The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

Tactical De-Escalation Techniques

- **Planning**
- **Assessment**
- **Time**
- **Redeployment and/or Containment**
- **Other Resources**
- **Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)**

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Sergeant Starkey estimated that the time from when he heard the possible gunshots in the office to when the suspect exited the office was approximately ten seconds. The rapid escalation of the situation by the suspect limited Sergeant Starkey's ability to plan for this incident. However, in regard to planning ahead for a possible off-duty incident, Sergeant Starkey stated he had practiced unholstering his off-duty pistol from his off-duty holster. Sergeant Starkey kept his off-duty pistol loaded with Department approved ammunition and inside of a Department approved holster.

The UOFRB noted that the suspect, after entering into the office of the car wash and presumptively firing his pistol at the victim inside, exited the office carrying the pistol in plain view in his hand. The suspect did not appear to have attempted to conceal the pistol even though numerous citizens and employees were present in the parking lot area of the car wash, keeping the firearm readily accessible.

Assessment – Sergeant Starkey observed the suspect arrive at the car wash with the hood of his sweatshirt pulled down, concealing his face. While the suspect was in the car wash office, Sergeant Starkey heard three possible gunshots. As the suspect fled the office, Sergeant Starkey observed the suspect holding an unconcealed pistol in his right hand and looking around. Sergeant Starkey assessed the suspect had committed a crime and that he was a threat to Sergeant Starkey and to the people at the carwash, leading Sergeant Starkey to take action and identify himself as a police officer. Sergeant Starkey assessed the background of the suspect during the OIS, taking into consideration that there was an empty parked vehicle and an apartment complex in the background. During the OIS, Sergeant

Starkey assessed after his first round of fire and observed the suspect flee on foot, but remained prepared and tracked the suspect's path.

Time – Sergeant Starkey was presented with a rapidly evolving incident in which the suspect's actions did not allow Sergeant Starkey time to communicate with the suspect, refine a tactical plan, or call for additional resources prior to the OIS incident. Sergeant Starkey instructed the suspect to stop and identified himself as a police officer. While it would have been preferable that Sergeant Starkey take a position of cover prior to identifying himself as a police officer, the danger presented to Sergeant Starkey and the citizens in the area by the armed suspect limited the time afforded to Sergeant Starkey.

Redeployment and/or Containment – The incident rapidly unfolded and provided limited time for Sergeant Starkey to redeploy. It would have been preferable Sergeant Starkey take a position of cover prior to identifying himself as a police officer. Sergeant Starkey attempted to contain the suspect as he tracked the suspect's movement to the waiting suspect vehicle.

Other Resources – Sergeant Starkey immediately contacted CD and requested an LAPD Southeast Patrol Division unit to respond and for LASD to be notified, due to the incident occurring in the jurisdiction of LASD. He additionally requested a rescue ambulance for the victim of the shooting.

Lines of Communication – Sergeant Starkey told the suspect to stop and identified himself as a police officer. Sergeant Starkey believed he needed to let the suspect and the other people at the car wash know that he was a police officer and not another suspect. The suspect responded by firing a pistol at Sergeant Starkey and running from the location. The suspect ran into an awaiting vehicle and fled from the location. The actions of the suspect did not allow for Sergeant Starkey to communicate further with the suspect. After the OIS incident, Sergeant Starkey communicated pertinent information to CD, as well as with LAPD and LASD personnel.

The UOFRB noted Sergeant Starkey was presented with a situation that required him to make a split-second decision to take police action. Sergeant Starkey was alone, and off-duty at the time of the incident which limited his tactical options. The UOFRB considered the disadvantages inherent with being off-duty, consisting of, but not limited to, not being equipped with a ballistic vest nor did he have the desired equipment for a tactical situation such as a radio to request assistance. Sergeant Starkey assessed that an armed suspect had committed a crime and was a threat to himself and to others at the car wash. Sergeant Starkey attempted to de-escalate the situation by issuing a verbal command for the suspect stop and gain the suspect's voluntary compliance. Sergeant Starkey did not attempt to physically confront the suspect, nor did he attempt to block the suspect's path. The UOFRB discussed the statement by a car wash employee, in which the employee believed that if it were not for Sergeant Starkey's actions, they all would have been shot.

Sergeant Starkey's use of planning, assessment, time, redeployment, and lines of communication were within Department standards and expectations. The UOFRB examined Sergeant Starkey's actions during this rapidly unfolding situation and his attempt to have the suspect submit to a lawful detention.

The UOFRB determined, and the Chief concurred, that Sergeant Starkey attempted to de-escalate the incident, but the suspect's aggressive actions, including firing a pistol at Sergeant Starkey limited Sergeant Starkey's options. Sergeant Starkey attempted to utilize different aspects of de-escalation techniques throughout the incident.

During the review of the incident, the following Debriefing Topics were noted:

Debriefing Point No. 1 Utilization of Cover

- *"Cover" is a term often associated with combat tactics. Under such conditions, cover refers to anything that may stop or deflect an opponent's weapon (e.g., brick walls, buildings, portion of the vehicle with the engine block, etc.) (California Commission on Peace Officers Standards and Training, Learning Domain 21).*

There is an equation that saves lives: Distance + Cover = Time. Time gives officers options. Time is an essential element of de-escalation as it allows officers the opportunity to communicate with the suspect, refine tactical plans, and, if necessary, call for additional resources. Entering the suspect's space prematurely may force the suspect to act, ultimately escalating the situation. Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate, or any similar object that prevents the assailant from reaching the officer (Los Angeles Police Department Training Bulletin, Weapons Other Than Firearms, Volume XLVI, Issue 3, October 2017).

The utilization of cover, coupled with distance, enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of actions taken during a tactical incident can be enhanced while also increasing an officer's tactical options. The investigation revealed that at the time Sergeant Starkey identified himself as a police officer, he did so without the benefit of cover.

Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work to ensure a successful resolution. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, the UOFRB recognized that the incident rapidly unfolded in front of Sergeant Starkey who did not have cover immediately available. The area between Sergeant Starkey and the suspect was the open space of the car wash lot. Cover

was available from some parked vehicles, but those vehicles were parked away from Sergeant Starkey and were not readily available. To seek cover, Sergeant Starkey would have had to use more time and delay intervening with the suspect who was walking with a firearm in plain sight amongst numerous car wash employees and other citizens. Although not specifically known at the time to Sergeant Starkey when he intervened with the suspect, the suspect had murdered a carwash employee prior to walking past Sergeant Starkey. Sergeant Starkey opined that a significant crime had occurred due to the suspect's actions and the sounds that Sergeant Starkey heard that were possible gunshots emanating from the office prior to the suspect exiting. The UOFRB would have preferred Sergeant Starkey have a position of cover prior to announcing his presence and ordering the suspect to stop, but considered that Sergeant Starkey's tactical options were significantly limited due to the immediacy of the possible threat of violence to numerous citizens and the limited available cover. The UOFRB recommended additional training on the topic of utilizing cover during the Tactical Debrief.

Based upon the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Sergeant Starkey's actions did not substantially deviate from department standards. The Chief directed that as a topic of discussion during the Tactical Debrief.

Command and Control

- *Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).

Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving

conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).

Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide)

Sergeant Coco responded to the incident and, as the first supervisor at scene, assumed the role of Incident Commander. Sergeant Coco was directed to Sergeant Starkey by LAPD officers who were already at scene. Sergeant Coco obtained a PSS from Sergeant Starkey and admonished him to not discuss the incident. After obtaining the PSS, Sergeant Coco walked away from Sergeant Starkey leaving him unmonitored in the car wash parking lot. Sergeant Coco later separated Sergeant Starkey, having Sergeant Starkey remain in the front passenger seat of Sergeant Coco's police vehicle. Sergeant Coco then left Sergeant Starkey unmonitored as Sergeant Coco communicated with a concerned citizen near the perimeter. On another occasion, while Sergeant Coco was responsible for monitoring Sergeant Starkey, Sergeant Coco temporarily left Sergeant Starkey unmonitored to update personnel who were responding to the incident. During that time, several citizens approached Sergeant Starkey and engaged him in conversation.

Sergeant Coco additionally coordinated with LASD personnel and assisted them in the homicide investigation. He directed LAPD officers to assist with establishing a crime scene, preserving evidence, and with identifying witnesses. Sergeant Coco gave direction to establish an LAPD command post and made notifications of the incident to Sergeant Gabaldon who was the Southeast Patrol Division Watch Commander.

The UOFRB noted that although Sergeant Coco was attempting to conduct multiple tasks at the incident, his primary responsibility was post-OIS procedures related to Sergeant Starkey. Sergeant Coco was not responsible for the homicide investigation and subsequent crime scene as the incident occurred in the jurisdiction of the LASD. By placing Sergeant Starkey into Sergeant Coco's police vehicle, Sergeant Coco was provided with a contained environment in which to keep Sergeant Starkey separated and monitored. Sergeant Coco had the opportunity to complete his responsibilities as a field supervisor responsible for post-OIS procedures. The UOFRB would have preferred Sergeant Coco focus on the needs of the individual involved in the OIS, as opposed to other additional interests which were the responsibility of the LASD. Sergeant Coco continued to allow distractions to result in lapses of his monitoring and separation duties of Sergeant Starkey.

The actions of Sergeant Coco were not consistent with Department supervisor training and therefore did not meet the Chief's expectations of a field supervisor during a critical incident.

Sergeant Gabaldon became aware of the OIS and, thirty-nine minutes later, notified the DOC. The total time elapsed from the OIS to Sergeant Gabaldon's DOC notification was approximately one hour. In addition, Sergeant Gabaldon's Watch Commander's Daily Report did not document the OIS incident under the *Categorical UOF* section in the *Major Incident Task List* section of the report. The incident was documented under the narrative portion of the Watch Commander's Daily Report; however, the narrative did not include information of the time and location where Sergeant Starkey was separated and monitored.

The UOFRB evaluated Sergeant Gabaldon's actions throughout this incident and noted that while she demonstrated overall leadership completing important and required tasks, the UOFRB would have preferred Sergeant Gabaldon make timely notifications and complete the Watch Commander's Log in an accurate manner.

In totality, Sergeant Gabaldon's actions during this critical incident were consistent with Department supervisory training and met the Chief's expectation of a watch commander during a critical incident.

Tactical Debrief

- Each tactical incident also merits a comprehensive de-briefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to review the officer's individual actions that took place during this incident.

Therefore, the Chief would have directed that Sergeant Starkey attend the Tactical Debrief and that the specific identified topics are discussed in addition to cover/concealment, foot pursuit concepts, and loading standards.²⁸

Note: Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

²⁸ Sergeant Starkey retired from his employment with the Los Angeles Police Department shortly after this incident. His retirement date had been pre-scheduled and was not related to this incident.

General Training Update (GTU)

- On May 22, 2019, Sergeant Starkey attended a GTU. All mandatory topics were covered.

Drawing/Exhibiting

- *Department policy relative to drawing and exhibiting a firearm is: "An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified" (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).*

According to Sergeant Starkey, he observed the suspect holding a black semiautomatic weapon in his right hand with the muzzle pointed down towards the ground. Sergeant Starkey observed that the suspect's weapon was bigger than his own. The suspect was looking around as he walked in a southwest direction down the driveway and was approximately halfway to the gate from where Sergeant Starkey was seated. Sergeant Starkey observed the suspect walking at a quick pace, but nothing that made Sergeant Starkey think that the suspect had just shot somebody. Sergeant Starkey assessed the situation and determined that those sounds possibly could have been gunshots and a crime could have occurred. Sergeant Starkey believed the suspect was a threat to not just himself, but to everyone in the car wash. Sergeant Starkey instructed the suspect to stop and Sergeant Starkey identified himself as the police. The suspect turned in a counterclockwise manner and fired a round in Sergeant Starkey's direction. Sergeant Starkey "just reacted" and did not know if he unholstered his pistol prior to the suspect shooting in his direction or if he unholstered afterwards.

Sergeant Starkey recalled,

It was like are those gunshots or --...Just sat there for a minute, waiting trying to figure out what was going on.²⁹

And then the guy in the gray hoodie walks out of the office past me and when he comes out as he's walking past me I see in his right hand a black semiautomatic weapon...I put two and two together and I say, "Stop. Police."³⁰

Facing Down... He continued walking just kind of looking around.³¹

²⁹ Sergeant Starkey LAPD Transcript, Page 19, Lines 8-9, 14-15

³⁰ Sergeant Starkey LAPD Transcript, Page 8, Lines 3-6, 8-10

³¹ Sergeant Starkey LAPD Transcript, Page 22, Line 12, Lines 18-19

I knew it was bigger than mine.³²

I realized that those sounds possibly could have been shots possibly a crime could have occurred...Not just me but to everybody in the car wash.³³

I just reacted. I don't know.³⁴

In this case, the UOFRB conducted a review in evaluating the reasonableness of Sergeant Starkey's Drawing and Exhibiting. The UOFRB noted Sergeant Starkey told the suspect to stop and identified himself as a police officer. In response to Sergeant Starkey's command, the suspect turned sideways at an angle, in a counterclockwise direction. The suspect brought up his firearm and fired one round in Sergeant Starkey's direction. Sergeant Starkey reacted, but did not know if he unholstered his off-duty pistol prior to or after the suspect fired at him. The UOFRB noted that in either case, the suspect was observed to have been holding a pistol or had already fired upon Sergeant Starkey.

As such, based on the totality of the circumstances, the UOFRB determined, and the Chief concurred that an officer with similar training and experience as Sergeant Starkey, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the Chief found Sergeant Starkey's Drawing/Exhibiting to be In-Policy, No Further Action.

Use of Force – General

- *It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*
 - *Defend themselves;*
 - *Defend others;*
 - *Effect an arrest or detention;*
 - *Prevent escape; or,*
 - *Overcome resistance*

The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in

³² Sergeant Starkey LAPD Transcript, Page 39, Line 7

³³ Sergeant Starkey LAPD Transcript, Page 55, Lines 8-9, Lines 11-13

³⁴ Sergeant Starkey LAPD Transcript, Page 23, Line 15

light of facts and circumstances of each particular case. Those factors may include, but are not limited to:

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
- *The environmental factors and/or other exigent circumstances. (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

Lethal Use of Force

- *Law enforcement officers are authorized to use deadly force to:*
 - *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
 - *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
 - *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

Sergeant Starkey- .380 caliber, one round in a southwesterly direction from an unknown distance.

Sergeant Starkey was standing approximately two or three feet south of the chair when he unholstered his pistol from its holster, which was attached to the right side of his belt. Sergeant Starkey utilized a two-handed grip and aimed at the suspect's body mass. At that point, the suspect was still in the car wash, north of the gate. A fraction of a second passed from the time the suspect shot at Sergeant Starkey to the time Sergeant Starkey fired one round back at the suspect. Sergeant Starkey

stated his background during the OIS only consisted of a car parked on the south side of the street and the apartment buildings along on the south side of Vermont Avenue.

Sergeant Starkey recalled,

I realize what had happened. I put two and two together and I say, "Stop. Police." And the other workers are coming up and they're over by the wash rack. And he turns kind of sideways at an angle and he fires a round in my direction and that's when I fire a round back.³⁵

He was in front of me about almost at the gate... He wasn't past the gate. He was still in the car wash.³⁶

He was turning around and had fired a round at me. Well, in my direction.³⁷

He fired at me first... I just remember him coming up and seeing the gun come up.³⁸ I was closer to the chair but I wasn't at the chair. I'll say I was maybe two or three feet south of the chair.³⁹

When I came up to fire a two-hand grip... I came straight up to target...At -- at the suspect body mass.⁴⁰

And I also wanted everybody in the parking lot -- not the parking lot, the car wash to know that I was a police officer and not a suspect myself.⁴¹

According to Sergeant Starkey, when asked by FID investigators of how much time elapsed between when the suspect fired at him and when Sergeant Starkey returned fire, Sergeant Starkey recalled, "Probably a fraction of a second."⁴²

In this case, the UOFRB conducted a thorough review of the investigation and considered several factors in evaluating the reasonableness of Sergeant Starkey's use of lethal force. The UOFRB noted that this was a dynamic and rapidly unfolding

³⁵Sergeant Starkey LAPD Transcript, Page 8, Lines 8-12

³⁶ Sergeant Starkey LAPD Transcript, Page 46, Lines 2-3, Lines 14-15

³⁷ Sergeant Starkey LAPD Transcript, Page 55, Lines 21-22

³⁸ Sergeant Starkey LAPD Transcript, Page 23, Line 19 and Page 24, Lines 13-14

³⁹ Sergeant Starkey LAPD Transcript, Page 43, Lines 23-25

⁴⁰ Sergeant Starkey LAPD Transcript, Page 25, Lines 10-11, Line 19, and Line 22

⁴¹ Sergeant Starkey LAPD Transcript, Page 55, Lines 2-4

⁴² Sergeant Starkey LAPD Transcript, Page 57, Line 8

incident in which Sergeant Starkey was forced to make a split-second decision to protect himself and other citizens at the car wash from the deadly threat. The suspect was walking through the car wash, armed with a pistol in his hand. Upon being verbally contacted by Sergeant Starkey, the suspect turned and fired his pistol at Sergeant Starkey, thus posing a deadly threat.

As such, based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Sergeant Starkey would reasonably believe that the suspect's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable. Therefore, the Chief found Sergeant Starkey's Use of Lethal Force to be In Policy, No Further Action.

Additional/Equipment

- **Personnel Status** – Sergeant Starkey retired from the Los Angeles Police Department shortly after the incident. His retirement date had been pre-scheduled and was not related to this incident.
- **Service Pistol Loading Standards-** The investigation revealed that Sergeant Starkey was in possession of an additional magazine in his back pocket. The magazine was loaded with a total of five rounds, but had a capacity of six rounds. This issue was brought to the attention of Captain A. McCraney, Serial No. 30183, Commanding Officer, Recruitment and Employment Division. Captain McCraney recommended additional training on Department Loading Standards during the Tactical Debrief, if Sergeant Starkey had not retired.
- **Department Operations Center Notifications-** The investigation revealed Sergeant Gabaldon became aware of the OIS and, approximately 39 minutes later, made notification to the DOC. The total time from the OIS occurring to the DOC notification was approximately one hour. This issue was brought to the attention of Captain Paglialonga. Captain Paglialonga addressed these issues by divisional training and the generation of a Supervisory Action Item (SAI). The Commanding Officer of Operations - South Bureau (OSB) and the Director of the Office of Operations (OO) concurred with this action. As such, the Chief deemed no further action was necessary.
- **Protocols Subsequent to a Categorical Use of Force Incident** – The investigation revealed Sergeant Gabaldon's Watch Commander's Daily Report did not document the OIS incident under the Categorical UOF section in the Major Incident Task List of the report. The OIS incident was documented under the narrative portion of the Watch Commander's Daily Report; however, the narrative did not include the time and location where Sergeant Starkey was separated and monitored. These issues were brought to the attention of Captain Paglialonga who addressed these issues by divisional training and the generation of a SAI. The

Commanding Officer of OSB and the Director of the OO concurred with this action. As such, the Chief deemed no further action was necessary.

Sergeant Coco obtained a PSS from Sergeant Starkey and admonished him to not discuss the incident. Sergeant Coco monitored Sergeant Starkey throughout the incident, however, there were times Sergeant Starkey was left unmonitored. After the PSS, Sergeant Coco left Sergeant Starkey unmonitored by his police vehicle, as he handled a citizen issue near the perimeter. On another occasion, Sergeant Coco temporarily left Sergeant Starkey unmonitored to update responding LAPD personnel. During that time, citizens approached Sergeant Starkey and engaged him in conversation. The noted issues were brought to the attention of Captain Paglialonga. Captain Paglialonga addressed the issues with Sergeant Coco through a comment card. The Commanding Officer of OSB and the Director of the OO concurred with this action. As such, the Chief deemed no further action was necessary.

In addition, Sergeant Coco's Sergeant's Daily Report did not document the time or location of his monitoring and separation of Sergeant Starkey. The noted issue was brought to the attention of Captain Paglialonga. Captain Paglialonga addressed the issue with Sergeant Coco through divisional training, which was documented in the Learning Management System (LMS), and the generation of a SAI. The Commanding Officer of OSB and the Director of the OO concurred with this action. As such, the Chief deemed no further action was necessary.

- **Body Worn Video (BWV) Activation** – The investigation revealed that Sergeant Coco activated his BWV approximately ten seconds after his arrival at scene. Sergeant Coco stated he believed he had activated his BWV device upon arrival to the incident. Sergeant Coco de-activated his BWV prior to taking the PSS from Sergeant Starkey. Approximately forty minutes later, Sergeant Coco powered off his BWV while at scene, during his monitoring of Sergeant Starkey. Approximately twenty-three seconds later, Sergeant Coco powered his BWV back on and activated his BWV prior to making contact with a citizen. Captain Paglialonga determined Sergeant Coco did not have a previous history of late activations or short buffers related to BWV. The noted issues were brought to the attention of Captain Paglialonga. Captain Paglialonga addressed the issues with Sergeant Coco through a comment card and divisional training. The corrective actions were documented in LMS and through the generation of a SAI. The Commanding Officer of OSB and the Director of the OO concurred with this action. As such, the Chief deemed no further action was necessary.

Officer Hagan had his BWV device powered on throughout the incident, but had a late activation of approximately twenty minutes after his arrival. The issue was brought to the attention of Captain Paglialonga. Captain Paglialonga determined Officer Hagan did not have a previous history of late activations or short buffers related to BWV. Captain Paglialonga addressed the issues with divisional training which was documented in LMS and in the generation of a SAI. The Commanding

Officer of OSB and the Director of the OO concurred with this action. As such, the Chief deemed no further action was necessary.

Audio/Video Recordings

- **Digital In-Car Video System (DICVS)** – Southeast Patrol Division vehicles were equipped with DICVS at the time of the incident. The DICVSs recordings resulted in three videos, all of which were post-OIS and were not of evidentiary value.
- **Body Worn Video (BWV)** – Sergeant Starkey was not equipped with BWV due to his off-duty status. Southeast Patrol Division officers responding to the incident were equipped with BWV, which they all activated during the incident. All videos were post-OIS. The BWV of Officer Serna captured Sergeant Starkey giving a thorough description of the suspect and the suspect's direction of travel. Sergeant Starkey was also captured stating that he heard three gunshots and had fired one round at the suspect.
- **Outside Video Surveillance** – LASD investigators recovered surveillance footage from the location. Two pieces of that footage were later provided to LAPD FID investigators. The OIS was not captured on any of the footage.

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INSPECTOR GENERAL REVIEW

Inspector General Analysis

Investigation Quality

- No significant issues of concern were identified in relation to investigation quality.

Training Issues

- No significant issues of concern were identified in relation to training.

Equipment Issues

- No significant issues of concern were identified in relation to equipment.

Detention

- The OIG concurs with the Chief's analysis.

Tactical De-Escalation

- The OIG concurs with the Chief's analysis.

Inspector General Recommendations

Tactics

- The OIG concurs with the Chief's findings.

Drawing/Exhibiting

- The OIG concurs with the Chief's findings.

Lethal Use of Force

- The OIG concurs with the Chief's findings.



MARK P. SMITH
Inspector General